We will now take up Half-an-Hour discussion. Shri Shantaram Laxman Naik to initiate the discussion.

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## HALF-AN-HOUR DISCUSSION

**Points arising out of the answer given on the 2nd March, 2006 to Unstarred Question No.1061 regarding 'Panchayat Elections'**

SHRI SHANTARAM LAXMAN NAIK (Goa): Mr. Vice-Chairman, Sir, I had asked an Unstarred Question No.1061 which was answered by the hon. Minister on 2nd March, 2006. The question was: Whether the Government are discouraging the introduction of two-child norm for candidates contesting Panchayat elections. The answer was: 'Yes, Sir.' The (b) part was: Whether the Government have officially advised the State Governments to this effect. The (c) part was: The States that have introduced the provisions in their Panchayat Laws. The (d) part was: The States which have deleted the provision after its introduction in respective legislation, and (e) whether the Government proposes to ban such introduction of two-child norm by Constitutional Amendment. The answer to (c) (d) and (e) are as follows: As per the information available, the States that have introduced this provision in their Panchayat Laws are Andhra Pradesh, Haryana, Himachal Pradesh, Madhya Pradesh, Rajasthan, Orissa, Maharashtra and Chhattisgarh. The State of Himachal Pradesh has deleted the provision after its introduction in its legislation. Madhya Pradesh has announced its intention of doing so. Haryana has the matter under review, and on whether the Government proposes to have a constitutional amendment, the answer is 'No, Sir.' Now, in view of this, Sir, Parliament by introducing the 73rd Constitutional Amendment Act has given a place of honour to the Panchayat which hitherto the Panchayat did not have. Accordingly, various State Governments have enacted their legislations for the purpose of governance of Panchayats in their respective States. The Constitution under Article 243 (c) has prescribed a Schedule, namely, Schedule XI to the Constitution. This Schedule XI specifies powers which the State Governments by various legislations have to give to the Panchayat. Now, there are involved 29 very, very wide powers. It is the duty of the State Governments to confer these powers upon the Panchayat. Now, without doing this primary job of allocating powers to the Panchayat -- and how they have done till today, may I say, Sir - these 29 powers have been bifurcated into three groups in the respective Schedules

of Panchayat Laws of the State -- Schedule I, II, III, whatever it is. Schedule I is meant for village Panchayat; Schedule II is meant for Taluka Panchayat and Schedule III is meant for Zila Panchayat. Now, even these powers, even when Schedule has been incorporated in the Panchayat Laws, have not been given directly to the Panchayat bodies. On the contrary, some State Governments have enacted a provision which says any Member having more than two children will be disqualified from contesting elections. Now, on the face of it, the principle looks to be very good; the principle looks to implement the National Population Policy, etc., etc. But why should we target one set of people, especially when the Constitution has given a prior place to women by giving one-third representation? This sort of provision, although it affects men also, badly affects women. I will give an example. In Rajasthan, there was a news item which said that a woman Sarpanch had to hide her one-month baby and keep it about 120 kms away because if the village people came to know that she had the third child, she would have been disqualified by a petition before the Collector. Another person in Bhopal kept his son in hiding with his brother in another house so that the other members of the Panchayat or people did not come to know about it. If we consider the cases, I am told, in Rajasthan, about 400 Panchayat members have been removed from their jobs during the last 2-3 years; about 350 in Madhya Pradesh; and, about 275 in Haryana. So, a large number of members of the Panchayat have been removed under this clause because they have got the third child. Some of the members may be good social workers who may have spent their lives in social work and in getting elected, but because of this provision, they have been removed from their jobs. Now, I would like to ask whether, morally or otherwise, this is a sound proposition. Not only that, Sir, when the wife of a Sarpanch or a Panch gets pregnant, it is learnt that in many cases, either the wives are driven away or divorce is granted to them so that the man, who is a Sarpanch or Panch, may not get disqualified. In one State, I learnt that a law has been enacted that if a person has got the third child, the water tariff, that he pays, will be higher. So, one after another, harsh laws are being enacted to punish the person who has got the third child. Now, this aspect has gone, as I say, against the principle of morality and otherwise also.

Then, Sir, people also laugh at it as to why only Panchayat members; why Members of Parliament and Members of Legislatures are not enacting such laws for themselves. So, this has become a laughing stock; why only village or Zila Panchayat people are punished. Therefore, this is

one aspect. Secondly, Sir, this cannot be genuine implementation of national policy. Professor Amartya Sen has said that Kerala's persuasion policy is better and has given better results than China's forced policy on population. This is what the veteran has said with respect to population.

Then, even the National Commission on Population, which is headed by our Prime Minister, has opined that population stabilisation and population control are two different things and we should not mix up these aspects for the purpose of so-called implementation of National Education Policy. In fact, the State Government should concentrate on delegation of powers to its various limbs. It should deal with the job first. They should delegate the powers, financial powers, to them, and further, they should create atmosphere in all the Government offices so that women can come there and there should be an atmosphere for them to work.

Then, we are also thinking of having *Nyaya Panchayats* in villages. That institution has also to be established and we should not be harsh towards one set of people.

Incidentally, Sir, I would also like to mention that the role of State Election Commissions is very, very important. In one State -- Mr. Minister, in your State -- we have learnt that the State Election Commission was sought to be appointed for lifetime, lifetime in the sense, 'without any tenure'. In all the States, the State Election Commission has got a tenure but the State of Tamil Nadu went to the extent of appointing a Commission without any tenure, which law has been struck down. Therefore, Sir, in view of the above, let the State Governments be responsible and implement the law *bona fide*, and, don't go in for such provisions which are harmful to women. Thank you.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Thank you. Now, the hon. Minister to reply. ...*(Interruptions)*... No, no. Please listen. I explain the procedure. Now, Mr. Minister will give the reply. Then, Members who would like to ask questions can do so. That is all. You cannot speak. This is Half-an-Hour discussion. After the reply, you can ask questions. That is the rule. I have referred to the rules. Now, Mr. Minister to give the reply.

THE MINISTER OF PANCHAYATI RAJ AND MINISTER OF YOUTH AFFAIRS AND SPORTS (SHRI MANI SHANKAR AIYAR) : Mr. Vice Chairman, Sir, I am deeply grateful to Shri Shantaram Laxman Naik for having brought up this Half-an-Hour discussion and I can only say that my Ministry entirely agrees with everything that he has said in letter and spirit. But I would like

to invoke an authority more important even than the Ministry in this regard, and, that is none other than the hon. Speaker of the Lok Sabha, who delivered the JRD Tata Memorial Oration on the 30th of March, 2005.

Sir, with the permission of the Chair, I would like to quote a few very important lines from that speech. He said, "In view of the laws enacted by some States, linking 'the two-child norm' with the right to contest elections to the Panchayati Raj Institutions, which have since received judicial endorsement, the majority of the populations in these States are, in effect, deprived of their right to contest such elections." He went on to say, "Needless to say, this is not in consonance with and may be said to violate the spirit of the 73rd Amendment to the Constitution." He added, "The largest number of cases of disqualification from contesting elections was with reference to this law. Women formed 41 per cent of those disqualified, and, the dalits, adivasis and the OBCs formed an overwhelming 80 per cent of those disqualified."

The hon'ble Speaker said, "It is thus clear that given the strong patriarchy in the country and thus the ideology of son-preference, particularly marked in the high fertility areas of the country, a vigorous pursuit of the two-child norm is likely to have the most undesirable consequences as it could degenerate into sex-selective abortions. Indeed, it was the recognition of this link that compelled the Chinese government to officially abandon its one-child per family norm."

Sir, bearing in mind the view expressed by the hon. Prime Minister that the National Population Policy does not permit of coercive measures to promote family welfare, given the view expressed here, and, also very importantly, a piece of research which was reported in the Economic and Political Weekly of the 11th June, 2005 by Dr. Nirmala Buch, we wrote to all the Chief Ministers of the States which have this policy. Before mentioning what we wrote to those Chief Ministers, I would just like to bring to the attention of the House the conclusions that Dr. Nirmala Buch came to, which included the following phrases.

"The two-child norm has serious impact on the status of women. An important area of concern is the desertion of women. Other areas of concern noted in the interviews in case studies were hospital admission for delivery under wrong names, bigamy, pre natal sex determination, seeking abortion at an advance stage of the wife's pregnancy, children being given away for adoption, allegations of infidelity and denial of paternity of the third

child and women exposed to violence from their opponents". Therefore, I put together the speech of the hon. Speaker as well as the article of Dr. Nirmala Buchand I followed up my initial letter of 11th May, 2005 with another letter on the 8th of September, 2005. In my letter of the 11th of May, 2005, I had said, and I quote myself, Sir, if you give me permission to do so, "We in the Ministry of Panchayati Raj feel that women, in particular, whether as elected representatives or as wives are adversely affected by this two-child norm due to the persisting lack of autonomy in women taking their own fertility decisions. Given the strong preference for sons in our society, any enforcement of the two-child norm on Panchayat representatives would encourage foeticide, increase discrimination against the girl child and worsen the already declining child sex ratio. Moreover, the penalty tends to fall most heavily on the poor, the illiterate and the socially disadvantaged groups in the society, the same groups that have historically faced discrimination and neglect and whom the 73rd Amendment seeks to empower by inclusion in the grass-root institutions of self-government which are the Panchayats". And I said, "In these circumstances, would you please consider withdrawing the imposition of the two-child norm for Panchayat representatives in your State?" Now, there has been some positive reaction in some States. Himachal Pradesh has actually withdrawn the provision. In Madhya Pradesh, the former Chief Minister had written to me saying that their Government intended to withdraw it. I don't know what further progress has been made in this direction. I have discussed it with the Government of Haryana, with the Chief Minister of Haryana. He has told me that our proposal is under 'very active' consideration, although there are many forces in that State which believe that it should be preserved. My discussion with the Chief Minister of Rajasthan on this subject did not move very far, beyond a general statement that the views expressed would be considered. But, by and large, what I need to emphasis to the House is that notwithstanding the 11th Schedule to the Constitution, to which Shri Naik has very correctly drawn the attention of the House, the fact is that Article 243 (G) provides that whatever devolution is done shall be done by State Legislatures and by law. Therefore, there is very little that the Central Government can do by way of enforcing a policy objective other than ensuring that the mandatory provisions of Part 9 of the Constitution are obeyed. All that we can do is to try to persuade, and, I think, the process of persuasion is extremely important because we have secured a total national consensus on, at least, one important point at the Third Round Table of the Panchayati Raj Ministers, which was held in Chattisgarh in

September of 2004, where the measure of consensus that we got was limited to the expression that we should be "sensitive to issues of gender empowerment so that the unintended consequence of such policies is not to diminish the role of women in Panchayati Raj." What we wanted to say through these rather guarded words was that while I am certain it was not the intention of any of the States to introduce the two-child norm actually to bring about foeticide or bring about desertion or encourage bigamy or have pregnancies terminated at an advance stage, these are unintended consequences. Therefore, it is necessary for State Governments to be sensitised to these unintended consequences and to ask themselves the question as to whether a two-child norm imposed on the lowest tier of our governance, which is the Panchayati Raj system, but not applied to either State Legislatures or the Parliament of India, is really giving the results for which the provision was made. The fact of the matter is that we have the lowest rates of fertility in States that do not adopt these kinds of draconian measures, and the National Population Policy, and consideration of these matters at academic and political levels, shows that there are very many larger factors which operate on fertility decisions than this kind of a coercive measure.

So, I would like to end this intervention by reminding the House, Sir, that I do not think politicians constitute a role model for the behaviour of couples with regard to reproduction, and the proof of that, I think, is that when this country had a Prime Minister, Pandit Jawaharlal Nehru, who had only one child, our birth rates were extremely high; and when we had a Prime Minister, Shri P.V. Narasimha Rao, who had eight children, our birth rates fell very considerably. Why is that? It is because, I think, politicians boost themselves far too much in imagining that their personal or family behaviour will determine the personal and family behaviour of crores and crores of Indians. A hundred crore Indians don't esteem us so highly that they make their personal or family decisions on the basis of our behaviour.

I think this two-child norm has caused a great deal of damage; it has not achieved its objectives. But it is not in the hands of the Union Government to get the States to change these provisions. All we can do is to bring these unintended consequences to their attention and hope that by thus sensitising them to real issues of gender empowerment, we will be able to move from token unsuccessful measures, like the two-child norm, towards genuine gender empowerment to resolve issues of the gender equation. Thank you, Sir.

SHRI JANARDHANA POOJARY (Karnataka): Sir, the hon. Minister had played his role while drafting the 73rd and 74th amendments to the Constitution. I was in charge of the Rural Development Ministry at that time. It is a very serious situation. Is the Minister, who is a capable Minister, helpless? You brought a constitutional amendment. Late Rajiv Gandhi, the former Prime Minister, had taken a bold step for amending the Constitution. Even though we failed in the Rajya Sabha by one vote, we did not go back. Now, here is a Minister who can do that. He is an efficient Minister. Nobody can deny that. He can bring amendment to the Constitution. We need not show our helplessness. I would like to know whether he would do that.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Shrimati N.P. Durga.

SHRIMATI N.P. DURGA (Andhra Pradesh) : Sir, I got the information.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Shrimati Vanga Geetha.

SHRIMATI VANGA GEETHA (Andhra Pradesh): Sir, I just want to ask two questions from the hon. Minister. But before that, I would like to quote a Press statement. Sir, I felt very happy after reading this Press statement by the hon. Minister.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Please, put the question.

SHRIMATI VANGA GEETHA: Sir, I just want to mention it. "It is unfortunate that over the years despite constitutional guarantees.."

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): No, Shrimati Vanga Geetha, the Rule does not permit this. Please, put the question. On the basis of the content, you can ask the question.

SHRIMATI VANGA GEETHA: Okay, Sir, as you permit. Sir, the hon. Member has raised an issue regarding article 243. Sir, I proudly say that I came from Panchayat to Parliament. I was Zilla Parishad Chairperson, which is the biggest district in Andhra Pradesh, East Godavari district. I am the first woman chairperson and a successful chairperson. I say it proudly because I toured all villages and found out the problems. Sir, regarding the devolution of powers regarding article 243G, all powers are vested in the Panchayat institutions, but no Government and no State has given these

powers, which are mentioned in 29 items in Schedule XI. I would like to know from the hon. Minister: How many States have devolved these powers on the Panchayats? Secondly, regarding my State, we have a Panchayat Raj system depending on three Fs - funds, functions and functionaries. Sir, the Andhra Pradesh Assembly passed a unanimous resolution for reverting back the three functionaries because in the three-tier system, five functionaries are there. In the middle, ZPTs are there and MPTs are there. That is why, there is more complication and conflict.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Please put your question.

SHRIMATI VANGA GEETHA: Okay, Sir. Are you taking any steps for these resolutions? Thirdly, you were telling about gender sensitisation. Women are very active. They are coming up very actively. But their powers are taken away by somebody due to lack of training. Are you strengthening the training system? Sir, knowledge is power. Because they don't know about the registers; they don't know about their roles; they don't know about the powers of the Panchayat Sarpanch or Secretary. So, if you give them the training, they will get more empowered.

SHRI MANI SHANKAR AIYAR: Sir, with your permission, I would like to start with the last point and come to the first point later. Let me first say, Sir, that I greatly appreciate the role that women have played in our Panchayats, the proof of which, I think, is the hon. Member herself who has risen from being the chairperson of the largest District Council, the largest Zilla Parishad, in the whole of her State to this distinguished position here in the House. There are 12 lakh women like her whom the Panchayati Raj system has brought into position. It is not recognised adequately in this country that where until 1992, we only had five thousand elected representatives for 100 crore people, today, we have 32 lakh elected representatives. Our elected representatives in the Panchayats are larger than the entire population of Norway and of these 32 lakh, 12 lakh are women. This is a degree of political empowerment of women that is without parallel in the world and without precedent in history. Yet, this enormous revolution that is taking place in our social relations is hardly at all remarked upon in our very urban-centric and middle class oriented media. You will notice, Sir, that there is virtually nobody in the media covering this important matter.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): No, there are.

SHRI MANI SHANKAR AIYAR: Sir, I said, 'virtually none' not 'none'. I would also urge her to recognise that Article 243G, while it does talk about units of local self-government with respect to planning and implementation, it does vest the responsibility for this in the State Legislatures which, by law, are required to take the required action. It is true that there is a great unevenness in the country, as a whole, in the devolution of functions, functionaries and finances. To smoothen out and iron out these differences in implementation, as Minister, I took my very first and important step of bringing together all the Panchayati Raj Ministers of this country around seven round tables that were arranged within a period of 150 days and by unanimity, we arrived at a set of 150 steps that we all need to take in order to reach Panchayati Raj in its fullness. And in this direction, now that we have got everybody agreed on what needs to be done, I am travelling from State to State, and trying to persuade the State Governments to do what they themselves have agreed to, what should be done to attain panchayati raj, and I am happy to announce that I shall be in Andhra Pradesh next month, and I will be very, very happy to meet the hon. Member there, perhaps, in East Godavari itself and see how things proceed. There is one other point. She also mentioned about the unanimous Resolution of the Andhra Pradesh State Assembly. I am afraid, this is a problem they have brought upon themselves, as a result of attempting to impose the system envisaged in the Constitution Amendment upon the system that had already been created by Shri N.T. Rama Rao. Now, there had been a very similar system in Karnataka which had been created by Shri Abdul Nazir Saheb. But, they have gone out of that by looking at the new Constitutional provision. So, when the Resolution of the Andhra Pradesh Assembly was brought before Parliament, in the shape of the Constitution 87$^{th}$ Amendment Bill, it was discovered by the Prime Minister at that time, Shri Atal Bihari Vajpayee, in an all-party meeting, that not even all the constituent party members of the NDA were willing to go along with the Constitution 87$^{th}$ Amendment. My Party certainly opposed it. I have no intention of bringing the Constitution 87$^{th}$ Amendment Bill out of cold storage. I plead with the hon. Member, and with everybody in Andhra Pradesh that since the concept of a five-tier system is uniquely of Andhra Pradesh, and is not faced in any other part of the country, perhaps, they should look at their own system once again. I can only give advice in this direction, and we can talk about it, particularly, when I come to Andhra Pradesh in April. I cannot impose it. Sir, amending the Constitution further...(*Interruptions*)...

SHRIMATI VANGA GEETHA: Sir, the Resolution was unanimously passed by the State Assembly...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J.KURIAN): Shrimati Geetha, your point has been replied to.

SHRI MANI SHANKAR AIYAR: I know that it was passed unanimously by the State Assembly, converted into the Constitution 87th Amendment Bill, which was brought to this Parliament, and after having been introduced, the Prime Minister called an all-party meeting, and in that all-party meeting, there was no consensus. You cannot really amend the Constitution for the benefit of one State. I think, the State will have to amend itself for the benefit of the Constitution.

With regard to the proposal that we amend the Constitution, first of all, I would like to thank Shri Janardhana Poojary for the complimentary words he said about me. I would like to reciprocate it by saying that it was under his stewardship that we actually succeeded in drafting everything that needed to be drafted. But, when we went before the Joint Parliamentary Committee, it became necessary to accommodate everybody's point of view, and one thing they did not change is the word "may" with regard to the Eleventh Schedule, which was there in the 64th Amendment, which he was responsible for, and remained in the 73rd Amendment, as it was passed by Parliament. So, we can persuade, and in the process of persuading, I think, the compendium of 150 action points, which we have got by not just consensus but unanimity among all the Panchayati Raj Ministers of India, and no Chief Minister has objected to even one single provision of that compendium, I believe that we are moving forward. This is not a ten-day Revolution, like the Bolshevik Revolution, this is an Indian Revolution. It is going to take its time. But, unlike the Bolshevik Revolution which collapsed, I am convinced that the Panchayati Raj Revolution will last, and last for ever. Thank you.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): The House is adjourned to meet at 11.00 a.m. on Monday, the 20th of March, 2006.

The House then adjourned at thirty-five minutes past five of the clock till eleven of the clock on Monday, the 20th March, 2006



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